

Jessica L. Blome (Cal. Bar No. 314898)
Lily A. Rivo (Cal. Bar No. 242688)
GREENFIRE LAW, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
Ph/Fx: (510) 900-9502
Email: jblome@greenfirelaw.com
lryo@greenfirelaw.com

Attorneys for Plaintiff Deniz Bolbol

JOSEPH P. CUVIELLO
205 De Anza Blvd., #125
San Mateo, CA 94402
Telephone: (650) 315-3776
Email: pcuvie@gmail.com

Plaintiff in Pro Se

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JOSEPH P. CUVIELLO and DENIZ
BOLBOL, individually,

Plaintiffs

v.

ROWELL RANCH RODEO, INC., et al.,

Defendants

Case No. 3:23-cv-01652-VC

**PLAINTIFFS' MOTION *IN LIMINE* NO.
5 TO EXCLUDE EVIDENCE
REGARDING DEFENDANTS' STATE
OF MIND**

Trial date: October 21, 2024
Time: 10:00 a.m.
Judge: Hon. Vince Chhabria
Courtroom: 5, 17th Floor

1 **I. Introduction**

2 Plaintiffs seek to exclude any evidence, testimony, or opinions seeking to establish that
3 Plaintiffs were blocking ingress or egress during their peaceful protest at the Rowell Ranch Rodeo
4 from May 20, 2022, to May 22, 2022. Any such evidence is irrelevant to establishing that
5 Defendants are liable for their conduct under the Bane Act. Cal. Civ. Code, §, 52.1. Defendants’
6 state of mind or intent is not necessary to establish liability under the Bane Act. *See* Order Granting
7 in Part and Denying in Part Cross-Motions for Summary Judgment (“Order”). Dkt. 129. Because
8 state of mind is irrelevant to demonstrating liability for Plaintiffs’ Bane Act claims, this Court
9 should exclude any evidence seeking to establish that Plaintiffs were blocking ingress or egress, or
10 otherwise depicting Defendants’ state of mind. Plaintiffs anticipate that Defendants will introduce
11 such evidence to support their argument that Defendants’ conduct in issuing threats, coercion, and
12 intimidation was justified. The Court should preclude any such evidence under Federal Rules of
13 Evidence, 401, 402, and 403. This evidence is more prejudicial than probative, likely to confuse
14 the issues and mislead the jury, and a waste of this Court’s time.

15 **II. Legal Standard**

16 Federal Rules of Evidence 401 and 402 prohibit the admission of evidence that does not tend
17 to make any fact of consequence more or less likely. Rule 403 limits admissible evidence to
18 relevant evidence, excluding otherwise relevant evidence if its probative value is substantially
19 outweighed by the danger of, “unfair prejudice, confusing the issues, misleading the jury, undue
20 delay, wasting time, or needlessly presenting cumulative evidence.” Fed. R. Evid. 403. District
21 Courts have “broad discretion in deciding what evidence is relevant, reliable and helpful to the trier
22 of fact.” *Humetrix, Inc., v. Gemplus S.C.A.*, 268 F. 3d 910, 919 (9th Cir. 2001). Additionally, where
23 the evidence is of slight probative value, “it’s an abuse of discretion to admit it if there’s even a
24 modest likelihood of unfair prejudice or a small risk of misleading the jury.” *United States v. Hitt*,
25 981 F.2d 422, 424 (9th Cir. 1992).

A. Plaintiffs' legal claims under the Bane Act do not require demonstrating intent or state of mind

Any evidence to establish that Plaintiffs were blocking ingress or egress should be precluded as it is irrelevant to questions facing the trier of fact, confuses the issues, and potentially misleads the jury. Fed. R. Evid. 403. The Court addressed Plaintiffs' remaining Bane Act claims in its Order. *See* Order, pp. 2-3. In denying summary judgment on the Bane Act for all parties, the Court narrowed the remaining disputes of material fact, including whether Defendants' conduct constitutes threats, coercion or intimidation under the Bane Act. *Id.* at p. 3. The Court also emphasized that the Bane Act claims require an objective test, asking whether a reasonable person would feel intimidated, threatened, or coerced by a Defendant's actions. *Id.* at pp. 2-4.

The Bane Act requires that challenged conduct be "intentional." *Simmons v. Superior Court*, 7 Cal.App.5th 113, 125 (2016). The question is whether Defendants attempted to, or did interfere with Plaintiffs' rights and whether this attempt or interference was accompanied by threats, intimidation, or coercion. Cal. Civ. Code, § 52.1(b); Order, p. 2. There is no requirement that Defendants "recognize the [unlawfulness] of their acts" so long as they acted "in reckless disregard" for Plaintiffs' constitutional rights. *Cornel v. City and Cnty. of S.F.*, 17 Cal.App.5th 766, 803-804 (Cal. Ct. App. 2017). Acting with "reckless disregard" means acting "willfully," *People v. Lashley*, 1 Cal.App.4th 938, 949 (1991), which simply means Defendants acted "intentionally" to achieve the desired outcome, regardless of whether they understood the outcome would in-fact violate Plaintiffs' rights. *Anderson v. Ford Motor Co.*, 74 Cal.App.5th 946, 972 fn. 15 (2022); *see also Korea Supply Co. v. Lockheed Martin Corp* (2003) 29 Cal.App.4th 1134, 1156-1157 (Intention means that a person's intended action or omission results in an intended result).

Accordingly, the Court should exclude any evidence of specific intent as it relates to Defendants' conduct in violation of the Bane Act because it is not required by law. Cal. Civ. Code, § 52.1(b). Defendants must have intended to move Plaintiffs to the FSA. And, as stated by the

1 Court, this attempt must have been conducted through “threats, intimidation, or coercion.” Cal.
 2 Civ. Code, § 52.1(b); Order, p. 2.

3 **B. Evidence regarding Plaintiffs’ blocking ingress or egress is irrelevant to**
 4 **helping the jury determine liability and prejudicial to Plaintiffs**

5 Evidence that Plaintiffs were blocking ingress or egress is more prejudicial than probative
 6 under Rule 403 because it is irrelevant to helping the jury determine liability under the Bane Act.
 7 Cal. Civ. Code, § 52.1. The Court has discretion to determine what is helpful to the trier of fact.
 8 *Humetrix, Inc.* 268 F.3d at 919. Admission of irrelevant evidence for the events at issue here –
 9 Defendants’ threats, intimidation and coercion that interfered with Plaintiffs’ constitutional rights –
 10 are likely to confuse the jury into thinking that whether Plaintiffs were blocking ingress or egress
 11 affects Defendants’ liability, which it does not. Additionally, evidence concerning whether
 12 Plaintiffs were blocking ingress or egress is not evidence that can then be corrected without risk of
 13 harm.

14 The Court addressed “the law’s purpose” in evaluating whether Plaintiffs must establish
 15 harm for a Ralph Act claim. Order, p. 4. Similarly, in holding to the purpose of the Bane Act, it
 16 would be, in the words of the Court, “antithetical” for the Court to admit testimony concerning
 17 whether Plaintiffs allegedly blocked ingress or egress at the Rodeo. Plaintiffs anticipate that such
 18 evidence may be introduced in an effort to support Defendants’ improper allegations of immunity
 19 for their conduct, which, by statute, requires no showing of intent.

20 **III. Conclusion**

21 For the foregoing reasons Plaintiffs respectfully request that this Court grant Plaintiffs’
 22 motion *in limine*.

23 Respectfully submitted,

24
 25 DATED: September 10, 2024

26 /s/ Lily A. Rivo
 27 Jessica Blome
 28 Lily A. Rivo
 GREENFIRE LAW, PC
 Attorney for Plaintiff Deniz Bolbol

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DATED: September 10, 2024

Joseph P. CuvIELLO
JOSEPH P. CUVIELLO
Plaintiff In Pro Se

PROOF OF SERVICE

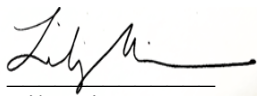
I am employed in the County of Alameda. My business address is 2748 Adeline Street, Suite A, Berkeley California 94703. I am over the age of 18 years and not a party to the above-entitled action. Document(s) served:

**PLAINTIFFS' MOTION IN LIMINE NO. 5 TO EXCLUDE EVIDENCE
REGARDING DEFENDANTS' STATE OF MIND**

On September 10, 2024, I served the foregoing document(s) on the parties in this action, located on the attached service list as designated below:

- () By First Class Mail, where indicated: Deposited the above documents in a sealed envelope with the United States Postal Service, with the postage fully paid.
- () By Personal Service: I personally delivered each in a sealed envelope to the office of the address on the date last written below.
- () By Overnight Mail: I caused each to be placed in a sealed envelope and placed the same in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for.
- (X) By Electronic Transmission: Based on an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 20, 2024, in Berkeley, California.



Lily Rivo

SERVICE LIST

<p>Joseph P. CuvIELlo 205 De Anza Blvd., #125 San Mateo, CA 94402 (650) 315-3776 Email: pcuvie@gmail.com</p> <p><i>Pro Se Plaintiff</i></p>	<p>Paul Caleo, Esq. Osmaan Khan, Esq. Gordon & Rees Scully Mansukhani, LLP 1111 Broadway, Suite 1700 Oakland, CA 94607 (510) 463-8600 Facsimile: (510) 984-1721 Email: pcaleo@grsm.com Email: oakhan@grsm.com Email: khernandez@grsm.com</p> <p><i>Atty. for Defendant Rowell Ranch Rodeo, Inc.</i></p>
<p>Dale L. Allen, Jr Allen, Glaessner, Hazelwood & Werth LLP 180 Montgomery Street, Suite 1200 San Francisco, CA 94104 (415) 697-2000 Email: dallen@aghlaw.com Email: erodas@aghlaw.com Email: nsyren@aghlaw.com</p> <p><i>Atty. for Defendants Hayward Area Recreation and Park District and Kevin Hart, Hayward Area Recreation and Park Public Safety Manager/Ranger</i></p>	<p>William Blake Rowell Marc Brainich Michele C. Kirrane Thiele R. Dunaway Fennemore Wendel 1111 Broadway, 24th Floor Oakland, CA 94067 (510) 834-6600 Email: browell@fennemorelaw.com Email: mbrainich@fennemorelaw.com Email: mkirrane@fennemorelaw.com Email: rdunaway@fennemorelaw.com Email: lmason@fennemorelaw.com</p> <p><i>Attys. for Defendants County of Alameda, Alameda County Sheriff's Office and Alameda County Deputy Sherriiff Joshua Mayfield</i></p>

1 William B. Rowell, Bar No. 178587
Thiele R. Dunaway, Bar No. 130953
2 Marc Brainich, Bar No. 191034
Michele C. Kirrane, Bar No. 215448
3 **FENNEMORE WENDEL**
1111 Broadway, 24th Floor
4 Oakland, CA 94607
Tel: (510) 834-6600 / Fax: (510) 834-1928
5 browell@fennemorelaw.com
rdunaway@fennemorelaw.com
6 mbrainich@fennemorelaw.com
mkirrane@fennemorelaw.com
7

Attorneys for Defendants
8 County of Alameda and Alameda County Deputy
Sheriff Joshua Mayfield
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 JOSEPH P. CUVIELLO and DENIZ
13 BOLBOL, individually,

14 Plaintiffs,

15 v.

16 ROWELL RANCH RODEO, INC.;
17 HAYWARD AREA RECREATION AND
PARK DISTRICT; HAYWARD AREA
18 RECREATION AND PARK DISTRICT
PUBLIC SAFETY MANAGER/RANGER
19 KEVIN HART; ALAMEDA COUNTY
SHERIFF'S OFFICE; ALAMEDA COUNTY
20 DEPUTY SHERIFF JOSHUA MAYFIELD;
and DOES 1 and 2, in their individual and
official capacities, jointly and severally,
21

22 Defendants.
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Case No. 3:23-cv-01652-VC

**DEFENDANT COUNTY OF
ALAMEDA'S OPPOSITION TO
PLAINTIFFS' MOTION *IN LIMINE*
NO. 5 TO EXCLUDE EVIDENCE
REGARDING DEFENDANTS' STATE
OF MIND**

Action Filed: April 6, 2023
Trial Date: October 21, 2024

1 **I. INTRODUCTION**

2 Defendants County of Alameda and Dep. Joshua Mayfield (“the County Defendants”)
 3 oppose plaintiffs’ Motion in Limine No. 5 to Exclude Evidence Re: Defendants’ State of Mind on
 4 the grounds that Ninth Circuit case law requires plaintiffs to establish Dep. Mayfield’s “specific
 5 intent” to violate their rights as part of their Bane Act claim. Accordingly, evidence of Dep.
 6 Mayfield’s mental state is highly relevant.

7 In addition, evidence as to whether plaintiffs were in fact blocking access to the rodeo
 8 area is directly relevant to the jury’s determination as to whether Dep. Mayfield had the requisite
 9 scienter for a Bane Act violation.

10 **II. LEGAL DISCUSSION**

11 **A. Plaintiffs Must Establish Dep. Mayfield’s Specific Intent to Interfere with**
 12 **Their Free Speech Rights**

13 Plaintiffs argue that “Defendants’ state of mind or intent is irrelevant” to a Bane Act
 14 claim. Plaintiffs’ MIL No. 5 at 2:5-6. This ignores recent Ninth Circuit case law directly on point
 15 that is not cited by plaintiffs, *Reese v. County of Sacramento*, 888 F.3d 1030 (9th Cir. 2018)
 16 (“*Reese*”), which explicitly holds that plaintiffs must establish defendant’s specific intent
 17 interfering with their rights.

18 The Court in *Reese* found that that Civil Code § 52.1(a) required a finding of the
 19 defendant’s specific intent to interfere with plaintiff’s rights was shown by the language of the
 20 statute itself. *Ibid.* (the words “threat, intimidation or coercion ... connote an element of intent”).
 21 This reading was bolstered by CACI 3066, which requires plaintiff to prove that defendant
 22 “intended to deprive” plaintiff of his or her rights. (*Ibid.*)

23 Accordingly, the Bane Act “imposes an additional requirement beyond a finding of a
 24 constitutional violation.” *Id.* at 1043. The phrase “threat, intimidation, or coercion” is an
 25 “aggravator justifying the conclusion that the underlying violation of rights is sufficiently
 26 egregious to warrant enhanced statutory penalties.” *Ibid.* This egregiousness is in turn “tested by
 27 whether the circumstances indicate” that the defendant had the “specific intent to violate”
 28

1 plaintiff's rights. *Id.* The *Reese* Court's discussion throughout on this issue was guided by a
 2 California Court of Appeal decision decided the previous year, *Cornell v. City & County of San*
 3 *Francisco*, 17 Cal.App. 5th 766 (2017) ("*Cornell*"), which the *Reese* Court noted it was "now
 4 bound to apply" because the California Supreme Court would likely reach the same conclusion.
 5 *Id.* at 1042-1043.

6 Accordingly, a finding of "general criminal intent" is insufficient. *Reese* at 1045.
 7 Specifically, "a mere intention to use force that the jury finds unreasonable" is not enough to
 8 establish liability. (*Ibid.*) Rather, "the jury must find that the defendants 'intended' not only the
 9 force, but its unreasonableness, its character as 'more than necessary under the circumstances.'" *Ibid.*
 10 (*quoting Cornell*).

11 **B. Dep. Mayfield's State of Mind is Relevant to His Specific Intent**

12 The *Cornell* court applied "the *Screws*¹ specific intent standard, which sets forth two
 13 requirements for this finding. First, the court will determine as a matter of law that the right is
 14 "clearly delineated and plainly applicable." *Id.* at 803. The jury will then determine the following
 15 question: "Did the defendant commit the act in question with the particular purpose of depriving
 16 the citizen victim of his enjoyment of the interests protected by that ... right?" *Ibid.* It is not
 17 necessary that the defendant understood that he or she was acting unlawfully. *Id.* at 803-804.
 18 Thus, "reckless disregard" of the relevant right is all that is necessary. (*Ibid.*) Objective
 19 circumstances are of course relevant to this inquiry. (*Ibid.*) But "*subjective*" elements, such as the
 20 defendant's "*spite*" in depriving plaintiff of his or her rights, are equally relevant to a finding of
 21 specific intent. *Id.* at 804.

22 The determination of defendant's "reckless disregard" in violating plaintiff's rights will be
 23 highly dependent on all the surrounding facts, both objective circumstances and "subjective"
 24 elements (such as the "spite" discussed in *Cornell*). So, for example, a jury could reasonably find
 25 reckless disregard where an officer lied about the plaintiff, causing other officers to misinterpret
 26 the force necessary to restrain him or escalated force where there no imminent danger to safety.

27
 28 ¹ As did the Court in *Reese*. *Id.* at 1043. See *Screws v. U.S.*, 325 U. 91 (1945).

1 *Estate of Nunis v. City of Chula Vista*, 676 F.Supp.3d 867, 887 (S.D.Cal.). Accordingly, any
 2 evidence – objective or subjective – relevant to the jury’s determination as to whether Dep.
 3 Mayfield had the requisite specific intent (including as to whether he acted in reckless
 4 indifference to plaintiffs’ rights) is relevant.

5 In the context of a claim for elder abuse, recklessness “refers to a *subjective* state of
 6 culpability” and requires “*deliberate disregard* of the high degree of probability” that an injury
 7 will occur. *Delaney v. Baker*, 20 Cal.4th 23, 31-32 (1999). Recklessness requires a “level of a
 8 *conscious choice* of a course of action ... with *knowledge* of the serious danger to others involved
 9 in it.” *Ibid.* (internal quotation marks omitted); see also CACI 1603 (“reckless disregard” in claim
 10 for intentional infliction of emotional distress requires that defendant “knew” that the emotional
 11 distress would probably result from his/her conduct.)

12 **C. Evidence that Plaintiffs Were Blocking Access to the Arena is Relevant to**
 13 **Dep. Mayfield’s Alleged Specific Intent**

14 Although the County Defendants’ culpable conduct as alleged in the First Amended
 15 Complaint is much broader, plaintiffs have recently suggested that they may be limiting their
 16 claim to Dep. Mayfield’s statement that, “You could be arrested for trespassing.” Whether or not
 17 plaintiffs were in fact blocking access to the rodeo arena is obviously directly relevant to what
 18 Dep. Mayfield meant by those words, because plaintiffs could be arrested for trespassing for such
 19 conduct. Further, evidence as to whether plaintiffs were blocking access is relevant to whether
 20 Dep. Mayfield had the specific intent (that is, the requisite mental state) to violate plaintiffs’
 21 rights, and as to whether a violation of the Bane Act occurred.

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1 **III. CONCLUSION**

2 Dep. Mayfield’s state of mind is directly relevant to Dep. Mayfield’s alleged specific
3 intent to violate plaintiffs’ rights. Evidence regarding plaintiffs’ blocking access to the arena is
4 also relevant to plaintiffs’ Bane Act claim. Accordingly, plaintiffs’ motion in limine should be
5 denied.

6
7 Dated: September 17, 2024

FENNEMORE WENDEL

8
9 By: /s/ Marc Brainich
10 William B. Rowell
11 Thiele R. Dunaway
12 Marc Brainich
13 Michele C. Kirrane
14 Attorneys for Defendants
15 County of Alameda and Alameda County
16 Deputy Sheriff Joshua Mayfield

CERTIFICATE OF SERVICE

Joseph P. CuvIELLO, et al. v. Rowell Ranch Rodeo, Inc., et al.
USDC – Northern District of California, Case No. 3:23-cv-01652-VC

I am a citizen of the United States and employed in Alameda County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1111 Broadway, 24th Floor, Oakland, California 94607.

On September 17, 2024, I served true copies of the following document(s) described as **DEFENDANT COUNTY OF ALAMEDA’S OPPOSITION TO PLAINTIFFS’ MOTION IN LIMINE NO. 5 TO EXCLUDE EVIDENCE REGARDING DEFENDANTS’ STATE OF MIND** on the interested parties in this action as follows:

Please see attached Service List.

BY EMAIL OR ELECTRONIC TRANSMISSION: By causing the document(s) listed above to be sent to the person(s) at the e-mail address(es) listed below. I did not receive, within a reasonable time after transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 17, 2024, at Oakland, California.

/s/ Lena S. Mason

Lena S. Mason

SERVICE LIST

Joseph P. CuvIELlo, et al. v. Rowell Ranch Rodeo, Inc., et al.
USDC – Northern District of California, Case No. 3:23-cv-01652-VC

Jessica L. Blome *Attorneys for Plaintiff Deniz Bolbol*
Lily A. Rivo
Greenfire Law, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
Phone: (510) 900-9502
Email: jblome@greenfirelaw.com
lrivo@greenfirelaw.com

Joseph P. CuvIELlo *Plaintiff Pro Per*
205 DeAnza Boulevard, #125
San Mateo, CA 94402
Phone: (650) 315-3776
Email: pcuvie@gmail.com

Dale L. Allen, Jr. *Attorneys for Defendants Hayward Area*
Nicholas D. Syren *Recreation and Park District, and Kevin*
Allen, Glaessner, Hazelwood & Werth, LLP *Hart*
180 Montgomery Street, Suite 1200
San Francisco, CA 94104
Phone: (415) 697-2000
Fax: (415) 813-2045
Email: dallen@aghwlaw.com
nsyren@aghwlaw.com
erodas@aghwlaw.com

Paul Caleo *Attorneys for Defendant Rowell Ranch*
Osmaan Khan *Rodeo, Inc.*
Gordon Rees Scully Mansukhani, LLP
1111 Broadway, Suite 1700
Oakland, CA 94607
Phone: (510) 463-8600
Fax: (510) 984-1721
Email: pcaleo@grsm.com
oakhan@grsm.com
khernandez@grsm.com

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, California 94104

DALE L. ALLEN, JR., State Bar No. 145279
dallen@aghwlaw.com
NICHOLAS D. SYREN, State Bar No. 334807
nsyren@aghwlaw.com
ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, CA 94104
Telephone: (415) 697-2000
Facsimile: (415) 813-2045

Attorneys for Defendants
HAYWARD AREA RECREATION AND PARK
DISTRICT and KEVIN HART

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH P. CUVIELLO and DENIZ
BOLBOL, individually,

Plaintiff,

v.

ROWELL RANCH RODEO, INC.,
HAYWARD AREA RECREATION AND
PARK DISTRICT, HAYWARD AREA
RECREATION AND PARK DISTRICT
PUBLIC SAFETY MANAGER/RANGER
KEVIN HART, and DOES 1 and 2, in
their individually and official capacities,
jointly and severally,

Defendants.

Case No. 3:23-cv-01652-VC

**DEFENDANTS HAYWARD AREA
RECREATION AND PARK DISTRICT AND
KEVIN HARTS' OPPOSITION TO
PLAINTIFFS' MOTION IN LIMINE NO. 5 TO
EXCLUDE EVIDENCE REGARDING
DEFENDANTS' STATE OF MIND**

Trial: October 21, 2024

I. INTRODUCTION

Defendants submit this opposition to Plaintiffs' motion in limine "5" in which Plaintiff seeks to exclude any evidence, testimony, or opinions seeking to establish that Plaintiffs were blocking ingress or egress during their peaceful protest at the Rowell Ranch Rodeo from May 20, 2022, to May 22, 2022. Plaintiffs argue any such evidence or testimony should be precluded under Federal Rules of Evidence, 401, 402, and 403. This evidence, Plaintiffs argue, is more prejudicial than probative, likely to confuse the issues and mislead the jury, and a waste of this Court's time. However, the evidence of the blocking of ingress and/or egress gives key context to

the jury as to why Ranger Kevin Hart was present and contacted regarding responding to Plaintiffs. For this reason, the evidence and testimony are more probative than prejudicial. The prejudicial value is limited here in relation to a Bane Act claim. Additionally, Plaintiffs must establish Kevin Hart's "specific intent" to violate their rights as part of their Bane Act claim. Accordingly, Kevin Hart's state of mind is highly relevant. Evidence as to whether Plaintiffs or other demonstrators were blocking ingress or egress is directly relevant to Mr. Hart's scienter for a Bane Act violation. For these reasons, Defendants respectfully request that Plaintiffs' motion in limine "5" be denied.

II. STANDARD OF REVIEW

Federal Rules of Evidence 401 and 402 prohibit the admission of evidence that does not tend to make any fact of consequence more or less likely. Rule 403 limits admissible evidence to relevant evidence, excluding otherwise relevant evidence if its probative value is substantially outweighed by the danger of, "unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." Fed. R. Evid. 403. District Courts have "broad discretion in deciding what evidence is relevant, reliable and helpful to the trier of fact." *Humetrix, Inc., v. Gemplus S.C.A.*, 268 F. 3d 910, 919 (9th Cir. 2001).

III. ARGUMENT

Here, Plaintiffs are incorrect that any evidence or testimony relating to the blocking or ingress or egress is irrelevant or more prejudicial than probative. The lack of mention of the Plaintiffs and/or demonstrators blocking ingress and/or egress itself is more prejudicial than probative because a jury would be left to make its own determination as to why the Defendants responded to the scene of Plaintiffs. Defendants are likely to testify that they responded to the scene in part due to complaints of the blocking of ingress and/or egress of the walkways near the ticket booth entrance. This is crucial to the jury's understanding of the facts and circumstances of the interactions with Plaintiffs at Rowell Ranch Rodeo on May 20, 2022. The inability to respond to questioning regarding the reasoning as to why the Defendants responded makes the jury assume the Defendants responded out of illegal or immoral reasons. For those reasons, the exclusion of such evidence and testimony is more prejudicial than probative under Fed. R. Evid.

1 401, 402 and 403.

2 Additionally, the determination of defendant’s “reckless disregard” in violating plaintiff’s
 3 rights will be highly dependent on all the surrounding facts, both objective circumstances and
 4 “subjective” elements (such as the “spite” discussed in *Cornell*). So, for example, a jury could
 5 reasonably find reckless disregard where an officer lied about the plaintiff, causing other officers
 6 to misinterpret the force necessary to restrain him or escalated force where there no imminent
 7 danger to safety. *Estate of Nunis v. City of Chula Vista*, 676 F.Supp.3d 867, 887 (S.D.Cal.).
 8 Accordingly, any evidence – objective or subjective – relevant to the jury’s determination as to
 9 whether Mr. Hart had the requisite specific intent (including as to whether he acted in reckless
 10 indifference to plaintiffs’ rights) is relevant.

11 Plaintiffs argue that “Defendants’ state of mind or intent is irrelevant” to a Bane Act
 12 claim. Plaintiffs’ MIL No. 5 at 2:5-6. This ignores recent Ninth Circuit case law directly on point
 13 that is not cited by plaintiffs, *Reese v. County of Sacramento*, 888 F.3d 1030 (9th Cir. 2018)
 14 (“*Reese*”), which explicitly holds that plaintiffs must establish defendant’s specific intent
 15 interfering with their rights. The Court in *Reese* found that that Civil Code § 52.1(a) required a
 16 finding of the defendant’s specific intent to interfere with plaintiff’s rights was shown by the
 17 language of the statute itself. *Ibid.* (the words “threat, intimidation or coercion ... connote an
 18 element of intent”). This reading was bolstered by CACI 3066, which requires plaintiff to prove
 19 that defendant “intended to deprive” plaintiff of his or her rights. (*Ibid.*)

20 The Bane Act requirement of specific intent makes the evidence including testimony of
 21 Mr. Hart directly relevant to the action.

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1 **IV. CONCLUSION**

2 For the aforementioned reasons, Plaintiff’s MIL “5” should be denied.

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4 Respectfully submitted,

5 Dated: September 17, 2024

6 ALLEN, GLAESSNER,
7 HAZELWOOD & WERTH, LLP

8 By: /s/ Nicholas S. Syren
9 DALE L. ALLEN, JR.
10 NICHOLAS D. SYREN
11 Attorneys for Defendants
12 HAYWARD AREA RECREATION AND
13 PARK DISTRICT and KEVIN HART
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21
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26
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28

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, California 94104

CERTIFICATE OF SERVICE

I am a resident of the State of California, over 18 years of age and not a party to the within action. I am employed in the County of San Francisco; my business address is: 180 Montgomery Street, Suite 1200, San Francisco, CA 94104. On September 17, 2024, I served the within: **DEFENDANTS HAYWARD AREA RECREATION AND PARK DISTRICT AND KEVIN HARTS' OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE NO. 5 TO EXCLUDE EVIDENCE REGARDING DEFENDANTS' STATE OF MIND** on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

SEE ATTACHED SERVICE LIST

☐ **By United States Mail:** I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Francisco, California.

☐ **By Overnight Delivery:** I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☒ **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the parties to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **(FEDERAL)** I declare under the laws of the United States of America that I am employed in the office of a member of the Bar of this court at whose direction the service was made and that the foregoing is true and correct.

Executed on September 17, 2024, at San Francisco, California.



Danielle Costes

SERVICE LIST

Jessica L. Blome
 Lily Rivo
 Gina Tomasselli
 Greenfire Law, PC
 2748 Adeline Street, Suite A
 Berkeley, CA 94703

Attorneys for Plaintiff Deniz Bolbol
 Telephone: (510) 900-9502
 Facsimile: (510) 900-9502
 E-Mail: jblome@greenfirelaw.com
 E-Mail: lrivo@greenfirelaw.com
 E-Mail: tomaselli@greenfirelaw.com

Joseph P. Cuvillo
 205 De Anza Blvd. #125
 San Mateo, CA 94402

Plaintiff Pro Per
 Telephone: (650) 315-3776
 E-Mail: pcuvie@gmail.com

Paul Damien Caleo
 Osmaan Khan
 Gordon Rees Scully Mansukhani, LLP
 1111 Broadway, Suite 1700
 Oakland, CA 94607

Attorneys for Rowell Ranch Rodeo, Inc.
 Telephone: (510) 463-8600
 Facsimile: (510) 984-1721
 E-Mail: pcaleo@grsm.com
 E-Mail: oakhan@grsm.com
 E-Mail: khernandez@grsm.com

William B. Rowell
 Thiele R. Dunaway
 Marc Brainich
 Michele C. Kirrane
 Fennemore Wendel
 1111 Broadway, 24th Floor
 Oakland, CA 94607

Attorneys for County of Alameda,
 Alameda County Sheriff's Office, and
 Alameda County Deputy Sheriff Joshua
 Mayfield
 Telephone: (510) 834-6600
 Facsimile: (510) 834-1928
 E-Mail: browell@fennemorelaw.com
 E-Mail: rdunaway@fennemorelaw.com
 E-Mail: mbrainich@fennemorelaw.com
 E-Mail: mkirrane@fennemorelaw.com